

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER, JULY 2008

TITLE OF PAPER: CONVEYANCING AND NOTARIAL PRACTICE

COURSE CODE: L 501/603

TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS: ANSWER ALL QUESTIONS

**THIS PAPER SHOULD NOT BE OPENED UNTIL PERMISSION HAS BEEN GRANTED
BY THE INVIGILATOR**

CONVEYANCING AND NOTARIAL PRACTICE
SUPPLEMENTARY EXAMINATION 2007/2008

ANSWER ALL QUESTIONS

TIME ALLOWED: 3 HOURS

QUESTION ONE

Musa Richard Simelane, a Swazi male adult is the registered owner of Lot No. 261 Thembelihle Township, Hhohho District under Deed of Transfer No. 242/2000 dated 4th April 2000 with diagram annexed; measuring 4480 square metres. In September 2007, the said Simelane instructed a land surveyor to subdivide his property and take out a portion measuring 2010 square metres. The said portion of land is represented on subdivisional diagram S. G. No. S146/2007 approved by the Surveyor General on the 14th September 2007. The value of the portion is E280, 000-00. On the 20th September 2007 the said Simelane donated the portion to his children in equal shares: a daughter Sinethemba Sylvia Simelane, an adult woman married according to Swazi Law and custom; and a son Vusi Petros Simelane who is unmarried. The said Simelane donated the remainder of his property to his wife Nomsa Jane Dlamini to whom he is married out of community of property. The said Nomsa Jane Dlamini recently took transfer of Lot No. 2172 Ngwane Park Township; Manzini District under Deed of Transfer No. 488/2007 dated 12th September 2007. You have been instructed as a Conveyancer to pass transfer of the properties into the names of the donees.

a). Inventing the necessary particulars, draft the following clauses of the Deed of Transfer you would prepare in respect of the portion:

- (i). the recital; (4 marks)
- (ii). the vesting clause; (10 marks)
- (iii). the property and extending clauses (10 marks)

b). Inventing the necessary particulars, draft the following clauses of the Deed of Transfer you would prepare in respect of the remainder:

- (i). the vesting clause; (7 marks)
- (ii). the property clause; (4 marks)
- (iii). the extending clause (5 marks)

[Total: 40 marks]

QUESTION TWO

Your client Musawenkhozi Cedric Sibeko lost his title deed, Deed of Transfer No. 390/2007 dated 4th March 2007. He has instructed you, a Conveyancer, to apply for a certified copy of the lost deed. Invent the necessary particulars:

a). Draft the notice that is required before you can make the application. (10 marks)

b). Draft the Application and Affidavit you would lodge in the Deeds Registry in order to obtain a copy of the said lost deed. (10 marks)

[Total: 20 marks]

QUESTION THREE

Describe the requirements of the Deeds Registry Act, 1968 and the Deeds Registry Regulations, 1973 in the following circumstances:

a). If immovable property has been acquired by any person not married in community of property and transfer thereof has not been effected during the lifetime of such person; (3 marks)

b). If the person described in (a) above died after having sold his property to another person; (2 marks)

c). If any spaces in a deed have not been used; (2 marks)

d). If any piece of land is owned by two or more persons in undivided shares and one or more of such persons acquires the share(s) of the remaining owner(s) in a defined portion of that piece of land; (3 mark)

e). If two or more persons, who own in undivided shares the whole of any piece of land, have agreed to partition that land; (4 marks)

f). If any registered deed has to be cancelled; (2 marks)

- g). If ownership of land is to be transferred from one person to another;
(2 marks)
- h). Where a deed of transfer, certificate of title or mortgage bond has to be prepared;
(2 marks)

[Total: 20 marks]

QUESTION FOUR

- a). Define the following terms in relation to the notarial office:
- i). "Appearers"; (2 marks)
 - ii). "Notarial bond"; (2 marks)
 - iii). "Protest" (2 marks)
- b). Distinguish between a notarial deed and an underhand deed. (2 marks)
- c). What duty is payable in respect of a notarial deed and what is the mode of payment thereof? (2 marks)
- d). Specify four notarial deeds creating or conveying real rights in land that must be registered in the Deeds Registry. (4 marks)
- e). b). What requirement must be satisfied relating to witnesses in respect of execution of a notarial deed? (3 marks)
- f). State the requirement that must be satisfied in order for a long lease to be valid, citing relevant authority. (3 marks)

[Total: 20 Marks]